

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ROBYN RENEE ESSEX

Plaintiff,

KEVIN YODER,

Intervenor Plaintiff,

v.

**KRIS W. KOBACH,
Kansas Secretary of State**

Defendant.

CIVIL ACTION

Case No. 12-CV-04046-KHV-DJW

**INTERVENOR COMPLAINT OF KEVIN YODER
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Intervenor Plaintiff, Kevin Yoder, hereby files his cause of action against Defendant Kris W. Kobach, Kansas Secretary of State. In support of this Complaint, Intervenor Plaintiff states and alleges as follows:

1. Kevin Yoder is a resident of the City of Overland Park in Johnson County, Kansas. Yoder is a registered and qualified voter and votes in the Kansas Third Congressional District.

2. On January 5, 2011, Kevin Yoder was sworn in to serve as part of the 112th Congress of the United States of America. As such, he is a current member of the Congress of the United States of America.

3. Representative Yoder represents the Kansas Third Congressional District. The Third District currently includes all of Johnson County, Wyandotte County, and a portion of Douglas County, Kansas.

4. Defendant Kris W. Kobach is the Secretary of State for the State of Kansas. Defendant Kobach is responsible for conducting elections under the laws of Kansas. Defendant is sued solely in his official capacity.

5. Jurisdiction is proper according to 28 U.S.C. §§ 1331, 1343(a)(3), and 2201.

6. The Kansas Legislature has failed to pass appropriate legislation to re-apportion Kansas congressional districts based on the 2010 Federal Census. Because of the Legislature's failure to act, congressional districts within Kansas are unconstitutionally imbalanced and Representative Yoder and similarly situated voters are being denied Equal Protection of the Law and Due Process of Laws under the United States and Kansas Constitutions.

COUNT I - CONGRESSIONAL REDISTRICTING

7. Representative Yoder incorporates the statements and allegation of paragraph 6 herein.

8. This case arises under Article I, Section 2 of the United States Constitution. Article I, Section 2 requires the apportionment of congressional seats. This case further arises under the Fourteenth Amendment, Section 1 of the United States Constitution, which guarantees the equal rights and privileges of all voters.

9. The current Kansas congressional districts are unbalanced, improperly apportioned, and do not provide voters across all Kansas congressional districts with an equal vote. As such, the constitutional rights of Representative Yoder and similarly situated voters have been violated.

10. Unless this Court acts, the Kansas Legislature's failure to reapportion its congressional districts will lead to the conduct of 2012 elections based on the existing,

unconstitutional congressional districts. Such elections would violate the constitutional rights of Representative Yoder and similarly situated voters in Kansas.

WHEREFORE, Intervenor Plaintiff Kevin Yoder respectfully requests an Order of this Court:

1. Declaring that the current congressional districts violate both the United States and Kansas Constitutional rights of Representative Yoder and similarly situated voters; and
2. Issuing a permanent injunction against the use of the current congressional districts for the purposes of any future primary or general election until such time as a court of final jurisdiction or the Kansas Legislature has selected, approved, signed, adopted, or ordered a constitutionally valid and fair reapportionment plan.

Respectfully submitted,

SMITHYMAN & ZAKOURA, CHARTERED

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ATTORNEYS FOR KEVIN YODER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on counsel via the Court's Electronic Filing System, this 22nd day of May, 2012.

s/ James P. Zakoura

James P. Zakoura, KS Bar #7644

Carson M. Hinderks, KS Bar #25079

ATTORNEYS FOR KEVIN YODER